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The Agony of War and a World without Law

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The Agony of War and a World Without Law

by
JOSH ZETLIN*

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I. War, Society, and Law

Lewis Milestone's 1930 war epic, *All Quiet on the Western Front*, presents its viewers with a harsh commentary on the impact of war on society.¹ World War I, the subject of Milestone's film, lasted from 1914 until 1918 and claimed the lives of over eight million people.² In many ways, the nightmarish conflict shattered Western civilization and ushered in the 20th century.³

Countless films have focused on the First World War in order to convey an anti-war message. However, few have done so as successfully as *All Quiet on the Western Front*.⁴ Scholars have described it as one of the greatest war films ever made, noting that it presents "the most powerful indictment of war's stupidity, waste,

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1. ANDREW KELLY, 'ALL QUIET ON THE WESTERN FRONT': THE STORY OF A FILM 2, (2000).

2. ANDREW KELLY, CINEMA AND THE GREAT WAR 1, (1997).

3. JOHN LUKACS, THE END OF THE TWENTIETH CENTURY AND THE END OF THE MODERN AGE 1, (1993).

4. KELLY, *supra* note 1, at 4.

carnage, agony, and confusion yet captured in film.”⁵ To convey the message that war brings only misery and destruction, the film starkly depicts the random savagery and loss of life in battle, the emotional trauma felt by soldiers and their families, and the widespread societal disintegration occurring on both the front lines and the home front.⁶

In addition to delivering its strong anti-war message, *All Quiet on the Western Front* provides insight into the roles of law in society. Classical thinkers and philosophers have pondered endlessly on the importance of law and the functions it serves to the community.⁷ The concept of the “social contract,” explored by philosophers such as Jean Jaques Rousseau, dealt with the theory that people surrender some personal rights to a government in order to maintain social order through the rule of law.⁸ Subsequent scholars expanded on this, developing distinctive areas of law and clarifying the different practical functions law should serve.⁹

By depicting a society overrun by the chaos of war, the film reveals what happens to civilization when law and order vanish. The film shows how the social contract and the legal institutions it spawned break down as collective and personal values change. Survival becomes paramount, causing people to disregard communal law and order.¹⁰ Misery, death, and destruction repeatedly result from this absence of law and changed values.¹¹ This illustrates Milestone’s view on the role that law plays in establishing standards of human behavior and maintaining a civilized society. The film suggests that society and individuals need law to provide accountability for bad acts, to protect the benefits conveyed by property, and to establish the symbiotic relationship between citizens and the government.¹² By showing the turmoil arising from lawlessness, the film bolsters its anti-war message and argues that there exists no valid justification for war.

These messages are especially relevant today. The societal breakdown resulting during the wars in Iraq and Afghanistan has

5. *Id.* at 4.

6. ALL QUIET ON THE WESTERN FRONT (Universal Pictures 1930).

7. C.B. MACPHERSON, THE POLITICAL THEORY OF POSSESSIVE INDIVIDUALISM 1 (1962).

8. See generally JEAN JACQUES ROUSSEAU, THE SOCIAL CONTRACT AND OTHER LATER POLITICAL WRITINGS (Victor Gourevitch ed., Cambridge University Press 1997) (1762).

9. MACPHERSON, *supra* note 7, at 1–2.

10. See ALL QUIET ON THE WESTERN FRONT, *supra* note 6.

11. *Id.*

12. *Id.*

pervaded lawlessness throughout these countries. The chaos has taken many forms, each of which exacerbates turmoil and brings pain and suffering to civilian populations.¹³ In Afghanistan, the fall of the Taliban and desperate conditions caused by the war have led to a massive increase in opium production, and a proliferation of the illegal drug trade.¹⁴ In Iraq, the departure of the government created a vacuum, leading to lawlessness, rioting, and significant civilian casualties.¹⁵ The failure of the invading armies to faithfully uphold international law has plagued efforts to govern these occupied countries.¹⁶ Regardless of the time or place, war brings about lawlessness, aggravating the suffering caused by the conflict.

This note will discuss how *All Quiet on the Western Front* depicts a wartime society devoid of legal institutions, and the dire consequences of this lawlessness. In Part II, this note presents an overview of *All Quiet on the Western Front*, summarizing the events of the film. Part III focuses on the social contract and the philosophical foundations of our legal system in order to illustrate the purposes of law. Part IV analyzes particular scenes in the film to reveal how the absence of law leads to suffering and societal breakdown. Finally, Part V reiterates the film's message that war causes the unacceptable disintegration of legal institutions. The article concludes by touching upon the timeliness of this topic, in light of the lawlessness resulting from the wars in Iraq and Afghanistan.

II. Overview of *All Quiet on the Western Front*

Milestone's film premiered in 1930 and instantly joined the pantheon of anti-war classics.¹⁷ It dramatically influenced perspectives on the conflict, contributing to the general opinion of world war as an unparalleled disaster.¹⁸ The film helped reveal the horrors of trench warfare and changed the perception of the enemy; someone to befriend rather than someone to kill.¹⁹ The film, and the

13. Bonnie Powell, *Lifting the fog of war: Human Rights Center Director Eric Stover reports on chaos and lawlessness in Iraq*, UC BERKELEY NEWS, April 29, 2003, http://berkeley.edu/news/media/releases/2003/04/29_stover.shtml.

14. CADS STAFF, CENTER FOR ADVANCED DEFENSE STUDIES, OPIUM IN AFGHANISTAN: LAWLESSNESS THRIVES ON NARCOTICS TRADE (2006), http://www.c4ads.org/files/cads_report_afgnarco_jun06.pdf.

15. Powell, *supra* note 13.

16. Linda McQuaig, *Lawlessness Hurting America's 'War on Terror'*, TORONTO STAR (Sept. 19, 2004) at A.13.

17. KELLY, *supra* note 2, at 44.

18. *Id.* at 1.

19. *Id.* at 2.

book that inspired it, elicited strong social and political responses.²⁰ In the United States, the film succeeded at the box office and won the Academy Awards for Best Picture and Best Director.²¹ However, in Germany, the Nazi government despised both the book and the film, banning them and destroying as many copies as possible.²²

All Quiet on the Western Front delivers its message so effectively because it provides its viewers with an intimate perspective on the hellish nature of war.²³ The film follows its protagonist, Paul Baumer, as he grows from an idealistic schoolboy into a grizzled and cynical war veteran.²⁴ *All Quiet on the Western Front* opens on a procession of soldiers, proudly marching past cheering throngs of admirers.²⁵ Nothing suggests that these men are actually marching towards a nightmarish conflict, filled with only death and destruction.²⁶

The film next depicts a classroom scene, in which an enthusiastic teacher, Professor Kantorek, preaches to his young students.²⁷ Delivering a speech that seems to echo the underlying meaning of the social contract concept, he screams, “personal ambition must be thrown aside in the one great sacrifice for our country.”²⁸ The students respond enthusiastically to their teacher’s call to arms.²⁹ The class erupts with nationalistic cheers and the students rush out to enlist in the army.³⁰

In boot camp, the new recruits begin to learn about the harsh reality of war.³¹ Their initial exuberance dissipates instantly upon the arrival of the drill sergeant, Himmelstoss, a postman they all knew before the war.³² Rather than greeting his acquaintances amicably, the drill sergeant begins shouting orders at them.³³ He proceeds to shatter their idealized image of war by forcing them through a brutal training program.³⁴

20. *Id.* at 44.

21. *Id.*

22. *Id.* at 51–52.

23. *Id.* at 2.

24. See ALL QUIET ON THE WESTERN FRONT, *supra* note 6.

25. *Id.* at 02:30.

26. *Id.* at 02:51.

27. *Id.* at 03:56.

28. *Id.* at 07:26.

29. *Id.* at 08:00.

30. *Id.* at 08:10.

31. *Id.* at 09:50.

32. *Id.* at 11:42.

33. *Id.* at 11:55.

34. *Id.* at 14:16.

All remnants of the heroic perception of war vanish completely when the soldiers arrive at the front. Shattered buildings, scarce resources, and constant bombardment greet the new recruits.³⁵ They quickly learn of the scarcity of basic necessities, such as food and shelter, and the randomness of death.³⁶ Paul, one of the new recruits, meets and quickly befriends a veteran soldier, Kat, who teaches him about coping with life in war.³⁷ The film goes on to depict brutal and chaotic battles, interspersed with scenes of life in the trenches.³⁸ We watch as nearly all the members of the class perish during battle and bombardments.³⁹

Eventually, Paul too falls victim to a shell.⁴⁰ He is hospitalized, with a wound in his side.⁴¹ He teeters on the verge of death, but wills himself to survive his grievous injury.⁴² After leaving the hospital, Paul returns home to visit his family for the first time since leaving for war.⁴³ He finds life on the home front nearly as unpleasant as life on the battle front.⁴⁴ The streets that were once filled with cheering throngs now sit deserted.⁴⁵ Food is scarce, and a sense of desperation permeates the city.⁴⁶

Paul visits the classroom where he first decided to enlist.⁴⁷ After hearing his teacher deliver the same inspirational speech to a new batch of students, Paul cries out about the horrors of war and the futility of sacrificing one's life for such a meaningless cause.⁴⁸ Paul realizes that the war has changed him to the point that he can never return to the life he once knew.⁴⁹ He cuts his leave short and returns to the battle front, the only place where he now feels comfortable.⁵⁰

35. *Id.* at 21:14.

36. *Id.* at 24:24.

37. *Id.* at 28:31.

38. *See generally* ALL QUIET ON THE WESTERN FRONT, *supra* note 6.

39. *See generally Id.*

40. *Id.* at 99:41.

41. *Id.* at 100:07.

42. *Id.* at 106:55.

43. *Id.* at 108:10.

44. *Id.* at 108:56.

45. *Id.* at 108:05.

46. *Id.* at 108:15.

47. *Id.* at 115:34.

48. *Id.* at 117:03.

49. *Id.* at 118:30.

50. *Id.* at 120:00.

Upon his return, Paul meets a new batch of young recruits and realizes that he has become the grizzled veteran.⁵¹ He seeks solace from his old friend Kat.⁵² However, immediately after their reunion, a random bomb falls and kills Kat.⁵³ In the next scene, while sitting on guard in a trench, Paul notices a butterfly. As he reaches out to grab the beautiful insect, an enemy sniper targets him.⁵⁴ The film ends with the sound of a gunshot, followed by Paul's hand falling limp.⁵⁵

War robbed Paul of everything, including friendship, family, his life, and even his ability to grasp simple beauty. The war caused additional damage by mutating social values and shattering the legal institutions designed to uphold the principles of the social contract. This absolute loss leaves the audience feeling haunted, understanding the magnitude of the film's anti-war message.⁵⁶ Nothing could possibly justify the type of totally destructive war depicted in *All Quiet on the Western Front*.

III. Foundations of Our Legal System

Understanding the origins and purposes of Western legal institutions and government clarifies why society needs law.⁵⁷ This understanding underscores the devastation of a situation where law and order have vanished.⁵⁸ *All Quiet on the Western Front* illustrates how war brings about such an absence. Much of the American legal system's foundation originated with the ideas formulated during the early 17th century era of philosophical thought, known as the Age of Reason.⁵⁹ Philosophers, including Jean-Jaques Rousseau, Thomas Hobbes, Emanuel Kant, and John Locke, wrote extensively about political theory.⁶⁰ They crafted novel theories about why law and government exist, and the roles they should serve.⁶¹ They aspired to identify a moral basis for democratic society, and in doing so, inspired

51. *Id.* at 122:05.

52. *Id.* at 125:40.

53. *Id.* at 129:40.

54. *Id.* at 132:13.

55. *Id.* at 132:46.

56. KELLY, *supra* note 1, at 7.

57. MACPHERSON, *supra* note 7, at 1.

58. IAN SHAPIRO & RUSSELL HARDIN, *POLITICAL ORDER 1* (1996).

59. MACPHERSON, *supra* note 7, at 1.

60. SHAPIRO & HARDIN, *supra* note 58, at 1.

61. MACPHERSON, *supra* note 7, at 1.

countless thinkers and laid the groundwork for many of our current political and legal institutions.⁶²

A philosophical concept known as the social contract provided insight into the moral, civil, and constitutional foundations of our society.⁶³ Prominent classical thinkers developed and refined this theory.⁶⁴ The social contract sought to clarify the philosophical reasons for the moral and political obligations that people owe to each other and to the state.⁶⁵ As mentioned above, the social contract posits that people must surrender some rights to a government or central organized body in order to establish and maintain social order through the rule of law.⁶⁶ The theory justifies the existence of the political state because it serves the purpose of preserving mankind.⁶⁷

In his seminal work, *The Social Contract*, Rousseau explained why the individual must submit to the will of society as a whole.⁶⁸ Rousseau stated that, as part of a collective body, individual citizens must put aside their personal interests to create a “general will.”⁶⁹ This popular sovereignty determines what is good for society as a whole.⁷⁰ Society then enforces this collective consensus through the rule of law.⁷¹ Along these lines, different manifestations of the law represent an expression of individual freedom, not a limitation.⁷² As a result, enforcing the law, including criminal law, does not restrict individual liberty, because, by joining civilized society, the individual explicitly agrees to be constrained.⁷³

John Locke addressed many similar concepts, providing additional insight into the role of law in the formally established state.⁷⁴ Locke believed that individuals formed states in order to

62. JOHN RAWLS, *A THEORY OF JUSTICE*, at xviii, (rev. ed. 1971).

63. David Boucher & Paul Kelly, *The Social Contract and its Critics*, in, *The Social Contract From Hobbes to Rawls* 13 (David Boucher & Paul Kelly eds., 1994).

64. *Id.* at 1.

65. *Id.* at 13.

66. *See generally* ROUSSEAU, *supra* note 8.

67. *Id.* at 14.

68. *Id.* at 1.

69. *Id.* at 17–18.

70. *Id.* at 17.

71. *See* JEAN-JACQUES ROUSSEAU, *DU CONTRAT SOCIAL* 21 (Maurice Cranston ed., Penguin Books 1968) (citing introduction by editor Maurice Cranston).

72. *See generally* JEAN-JACQUES ROUSSEAU, *OEUVRES COMPLÈTES*, III 36 (B. Gagnebin & M. Raymond eds., 1959); *THE COLLECTED WRITINGS OF ROUSSEAU*, IV 139 (C. Kelley & R. Masters eds., 1990).

73. *Id.*

74. MACPHERSON, *supra* note 7, at 197.

create a neutral judge.⁷⁵ Additionally, laws designed to achieve a common good would legitimize the state.⁷⁶ The state could then protect the lives, liberty, and property of those who lived within it.⁷⁷ This idea stemmed from Locke's belief that an individual's ability to personally defend his or her rights, as exists in the natural state, was not enough.⁷⁸ To compensate for this, people must establish a civil society with an organized government to resolve conflicts in a civil way.⁷⁹

Locke's theories explaining the necessity of government inspired the American founding fathers.⁸⁰ John Locke and his second treatise on government served as a direct inspiration for the Declaration of Independence and American legal foundations.⁸¹ The American founding fathers and other prominent Western politicians utilized the philosophies of Locke, Rousseau, and the other Age of Reason thinkers to create a society that embraced certain theoretical ideals.⁸²

The Western legal system took on the role of applying the philosophical concepts, described above, in ways that achieved these abstract goals.⁸³ Different areas of law were carved out to serve as mechanisms for attaining certain specific aims, like the protection of individual rights.⁸⁴ As one scholar explained:

[t]he law is essentially a body of social means—instruments to serve goals derived from underlying wants and interests. The law is thus a kind of elaborate technology. . . . It is vast and sophisticated and may be broken down into a variety of component parts. Law's technology is a man-made set of tools that may be deployed to serve goals as needed.⁸⁵

75. See JOHN LOCKE, SECOND TREATISE ON GOVERNMENT 3 (Henry Regnery Company 1966) (1689).

76. *Id.*

77. *Id.*

78. MACPHERSON, *supra* note 7, at 197–98.

79. *Id.*

80. CARL L. BECKER, THE DECLARATION OF INDEPENDENCE: A STUDY IN THE HISTORY OF POLITICAL IDEAS 27 (Vintage Books New York 1958) (1922).

81. *Id.*

82. *Id.*

83. Robert S. Summers, *On Identifying and Reconstructing a General Legal Theory—Some Thoughts Prompted by Professor Moore's Critique*, 69 CORNELL L. REV. 1014, 1017 (1984).

84. *Id.*

85. *Id.*

IV. *All Quiet on the Western Front* Depicts a World Without Law

The architects of our legal system established certain specific areas of law, including property law, criminal law and civil rights, to protect many of the theoretical interests identified by the Age of Reason philosophers. Over time, statutes and common law principles clarified the purposes and scope of these areas of law. The legal system came to function as a means for implementing and supporting social values. However, during the wartime world depicted in *All Quiet on the Western Front*, core values changed and many of these legal institutions vanished.⁸⁶ The chaos of war reveals what society would be like without law and order. This absence of law repeatedly causes great harm.⁸⁷ Because each of these areas of law serves certain important and specific purposes in society, when law vanishes, society crumbles.

A. Both Victims and Criminals Need the Criminal Law

Combining political and moral philosophies, criminal law enables society to strive for the noble and moral imperative called “justice.”⁸⁸ Criminal law utilizes social wants and interests to set the standards of what the community accepts as right and wrong. To achieve this, criminal law sets a minimum code of conduct, defining what is publicly impermissible. The link to moral philosophy justifies the state’s use of coercive power against autonomous individuals.

All Quiet on the Western Front features numerous instances where traditional criminal acts go unnoticed and unpunished. In the chaos of war, death comes frequently and easily to soldiers and civilians, no institutions for obtaining justice exist, and survival in battle often depends on committing acts deemed morally unacceptable by the traditional social order.⁸⁹ As survival becomes a challenge, people no longer concern themselves with upholding moral principles.⁹⁰ War alters the system of values, such that people no longer view classically “bad acts” as wrong.⁹¹ Despite this changed attitude, throughout the

86. See ALL QUIET ON THE WESTERN FRONT, *supra* note 6.

87. *Id.*

88. KATE BLOCH & KEVIN MCMUNIGAL, CRIMINAL LAW: A CONTEMPORARY APPROACH 40 (2005).

89. See generally KELLY, *supra* note 2, at 1.

90. See generally BERNADETTE KESTER, FILM FRONT WEIMAR: REPRESENTATIONS OF THE FIRST WORLD WAR IN GERMAN FILMS OF THE WEIMAR PERIOD (1919-1933), 12-13 (2003).

91. *Id.* at 13.

film, repeated criminal incidents lead to anguish felt by both the actors and the victims.⁹²

In one of the most harrowing scenes in the film, Paul Baumer struggles with the fact that he bears no accountability for killing another person. During a charge across the battlefield, Paul topples into a large crater.⁹³ Despite his attempts to hide from the battle raging above him, an enemy soldier also dives into the crater.⁹⁴ In a brutal act, Paul stabs the Frenchman, mortally wounding him.⁹⁵ After sitting in the crater with the dying man, the full severity of Paul's action hits him. He tries to comfort the man as he dies.⁹⁶ Later, Paul talks with the corpse and pleads for forgiveness.⁹⁷ The nature of war forces Paul to murder someone, one of most reviled acts a man can commit. Despite his grievous act, Paul bears no accountability to any third party.

At first, Paul responds like an ordinary criminal and tries to deny guilt.⁹⁸ He shouts at the corpse, "You know I can't run away, that's why you accuse me!"⁹⁹ Paul also tries to shift the blame, asking "Oh God, why did they do this to us?"¹⁰⁰ Paul suggests that the generals and commanding officers bear responsibility.

However, guilt eventually overwhelms him. The absence of accountability exacerbates Paul's suffering. He cries to the corpse and begs for forgiveness.¹⁰¹ He tries to confess by saying, "You're just a man like me and I killed you."¹⁰² Yet, despite this confession, no institution exists to punish Paul for committing murder. Paul's anguish over the lack of accountability reveals Milestone's view that criminal law is a morally necessary institution. It upholds important values, preserving individual and collective integrity.¹⁰³ Some acts are so inherently immoral that the actor suffers by committing them.¹⁰⁴ The retribution associated with criminal justice allows the criminal to

92. See generally ALL QUIET ON THE WESTERN FRONT, *supra* note 6.

93. *Id.* at 76:28.

94. *Id.* at 77:03.

95. *Id.* at 77:08.

96. *Id.* at 78:40.

97. *Id.* at 81:32.

98. *Id.* at 81:22.

99. *Id.*

100. *Id.* at 82:03.

101. *Id.* at 81:45.

102. *Id.* at 81:43.

103. See GEORGE P. FLETCHER, RETHINKING CRIMINAL LAW xix (2000).

104. See BLOCH & MCMUNIGAL, *supra* note 88, at 40.

feel as though they have “paid their debt” to society.¹⁰⁵ The absence of accountability and retribution deprives the criminal of their ability to pay for their moral infraction.¹⁰⁶

By showing the effects of a crime on the victim, the film bolsters its message about the importance of criminal law. Shortly after arriving in the trenches, Franz Kemmerich, one of the young recruits from Professor Kantorek’s classroom, gets injured by a shell.¹⁰⁷ Several scenes later, Paul and some of the other young soldiers visit Kemmerich in the hospital.¹⁰⁸ The visitors act jovial when they arrive, bringing flowers for their injured friend.¹⁰⁹ They smile and ask Kemmerich about the treatment he’s receiving.¹¹⁰ The mood quickly turns somber when Kemmerich cries, “They’re robbers here, robbers! They stole my watch!”¹¹¹ One of the soldiers tries to cheer Kemmerich up by joking that nobody should carry such a valuable watch.¹¹² Kemmerich responds by moaning about how the doctors took his watch while he was under ether.¹¹³ Paul tries to calm Kemmerich by whispering, “Franz, you’ll get it back.”¹¹⁴

In contrast to the jokes and reassurances, the expressions of the soldiers and Kemmerich’s increasingly desperate tone convey a very pessimistic message to the audience. It instantly becomes clear that Kemmerich will not receive restitution for the crime committed against him. In a hospital filled with dead and dying soldiers, few people seem to care about one man’s stolen watch. War has altered their priorities and values. Despite this, the film clearly conveys that the watch meant a lot to Kemmerich. The theft was the first thing Kemmerich mentioned to his friends upon their arrival.¹¹⁵ Milestone again shows the need for criminal law by illustrating how the absence of this legal institution allows the thief to escape without facing retribution for his bad act. Retribution serves the important role of imposing a morally justified punishment, which conveys the victim’s

105. Michele Cotton, *Back with a Vengeance: The Resilience of Retribution as an Articulated Purpose of Criminal Punishment*, 37 AM. CRIM. L. REV. 1313, 1315–16 (2000).

106. Gerard V. Bradley, *Retribution and the Secondary Aims of Punishment*, 44 AM. J. JURIS. 105 (1999).

107. ALL QUIET ON THE WESTERN FRONT, *supra* note 6, at 31:57.

108. *Id.* at 57:49.

109. *Id.* at 58:05.

110. *Id.* at 58:10.

111. *Id.* at 58:18.

112. *Id.* at 58:30.

113. *Id.* at 58:31.

114. *Id.* at 58:34.

115. *Id.* at 58:18.

aggrievance to the criminal.¹¹⁶ The absence of criminal law leaves this role unfilled, inflicting additional pain on the already suffering Kemmerich.

B. People Need Property Law to Protect the Benefits of their Property

In the abstract sense, property rights are nothing but a basis of expectation.¹¹⁷ The owner of property expects to derive certain benefits from their possession of an object or land.¹¹⁸ In an ideal society, the protection provided by law allows people to enforce their property rights in order to reap the benefits of ownership.¹¹⁹ In connection with this, property law determines the relationship between the property owner and the community with regards to the use and exploitation of land and chattels.¹²⁰

All Quiet on the Western Front reveals how property rights vanish during wartime. When struggling to survive, people no longer assign much worth to tangible property. As values change, the mechanisms for enforcing property law collapse and people lose the ability to benefit from their possessions. Multiple characters suffer as a result of this, reinforcing Milestone's message about the importance of this legal structure.¹²¹

Many scenes throughout the film drive home the point that, as priorities shift from seeking enjoyment to struggling for survival, property receives no protection during wartime.¹²² The absence of criminal law, as discussed above, eliminates the traditional institution that forcibly imposes penalties for theft. Compounding this, few characters seems to even care about property rights. Far worse travesties permeate daily life during wartime, and enforcing the benefits of property seems to be the least of anyone's worries.

In particular, the scene in which Paul and his friends visit Kemmerich in the hospital highlights many of these issues.¹²³ As the soldiers approach Kemmerich's bed, they stare in shock and awe at the dead and dying surrounding them.¹²⁴ Kemmerich's cries about his

116. Bradley, *supra* note 106, at 105.

117. JEREMY BENTHAM, *THEORY OF LEGISLATION* 111 (R. Hildreth trans., London: Trübner & Co. 4th ed. 1908) (1882).

118. *Id.* at 111–12.

119. *Id.* at 112.

120. JOHN CRIBBET & CORWIN JOHNSON, *PROPERTY* 9 (9th ed. 2007).

121. *ALL QUIET ON THE WESTERN FRONT*, *supra* note 6.

122. *See generally Id.*

123. *Id.* at 57:49.

124. *Id.* at 57:56.

watch seem insignificant compared to all the other misery in the hospital. Even for Kemmerich himself, the theft of his watch becomes trivialized when the scope of his injuries becomes apparent.¹²⁵ Upon revealing that the doctors have amputated his leg, focus shifts away from the stolen watch.¹²⁶

The film conveys that war disintegrates property rights to the point where society completely accepts and even occasionally glorifies thievery. Essential resources have become so scarce that many people must steal to survive.¹²⁷ Fellow soldiers celebrate and revere Kat Katczinsky, the grizzled veteran, because he consistently steals food and shares it.¹²⁸ Kat never faces any condemnation for his “crimes.”

Additionally, the film directly shows open acknowledgement and acceptance of theft. While visiting Kemmerich in the hospital, one of the young recruits, Mueller, asks if he can take Kemmerich’s comfortable boots.¹²⁹ The recruits disregard the question, but as they’re leaving, Kemmerich tells Paul to bring the boots to Mueller.¹³⁰ As Paul leaves the hospital with the boots, two soldiers comment, “I bet he stole those boots!”¹³¹ Rather than alert the authorities to the apparent theft, the soldiers simply chuckle to themselves.¹³²

By showing how war directly conflicts with the classical purposes of property law, Milestone reveals his belief in the importance of preserving the benefits of property. To achieve this, the film uses metaphor to show how people in war lose their ability to enjoy the benefits of their property. After returning from the hospital, Paul gives Kemmerich’s boots to Mueller.¹³³ The film then focuses on the boots and segues to a montage.¹³⁴ We see Mueller marching in the boots, grinning because he enjoys their comfort.¹³⁵ The scene changes to Muller running through battle, and collapsing after a shell explodes.¹³⁶ The boots then change hands again. The new wearer

125. *Id.* at 58:54.

126. *Id.* at 59:02.

127. *Id.* at 25:06.

128. *Id.* at 24:23.

129. *Id.* at 60:11.

130. *Id.* at 64:00.

131. *Id.* at 65:29.

132. *Id.*

133. *Id.* at 66:15.

134. *Id.* at 67:28.

135. *Id.* at 67:40.

136. *Id.* at 67:55.

also grins while marching and then perishes shortly thereafter.¹³⁷ Each wearer dies before gaining extended enjoyment from the boots. This clearly conveys the message that war deprives man of his ability to take pleasure in the benefits of his property.

To further reinforce the importance of property law, the film shows that the absence of property rights brings about great emotional harm. As discussed above, Kemmerich felt deeply saddened by the loss of his watch. With his dying breath, Kemmerich begged Paul to find the watch and send it to his family.¹³⁸ Despite his seemingly more grievous physical injuries, Kemmerich used his last words to speak about his lost property.

C. People Need Social Hierarchy and Protection of Government

In addition to commenting on distinct areas of law, *All Quiet on the Western Front* provides a general interpretation of the role that government should play in peoples' lives. According to the Social Contract, people give up some rights to their government in exchange for social order through the rule of law.¹³⁹ The film sends the message that governments must uphold their end of this bargain by instituting some form of law and social order, to protect their citizens. Their failure to do so risks undermining the foundations of civilization, leading to collapse of the social order.

In light of the conflicts in Iraq and Afghanistan, this issue stands as especially important today. The American invasions created political power vacuums atop the Iraqi and Afghani regimes.¹⁴⁰ This stifled the Iraqi and Afghani governments' ability to provide essential legal structures, aid, and social services to their citizens.¹⁴¹ In their place, the American Government has largely failed to adhere to the rule of law, exacerbating the already troubled situation.¹⁴² According to Justice Brandeis, "In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. . . . If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself;

137. *Id.* at 68:05.

138. *Id.* at 64:13.

139. *See generally* ROUSSEAU, *supra* note 8.

140. UN News Centre, Top UN Officials Warn Lawlessness in Iraq Hindering Relief Efforts, <http://157.150.195.10/apps/news/storyAr.asp?NewsID=7175&Cr=iraq&Cr1=relief> (last visited April 9, 2010).

141. *Id.*

142. McQuaig, *supra* note 16.

it invites anarchy.”¹⁴³ Rather than providing stability, American occupying forces have disregarded international law, tortured prisoners, and killed countless innocent civilians.¹⁴⁴ As a result, the Iraqi and Afghani citizens suffer from the lack of law and order they bargained for in the Social Contract.

To bolster the message that law and order completely vanish during wartime, *All Quiet on the Western Front* repeatedly communicates that the government has failed to pay back its citizens for sacrificing their rights in accordance with the Social Contract.¹⁴⁵ This conveys the message that, above and beyond dismantling specific legal institutions, the war has actually shattered the philosophical foundation for Western law.

During one sequence, the soldiers sit around conversing idly.¹⁴⁶ Their discussion shifts to the topic of who started the war and how it began in the first place.¹⁴⁷ Someone remarks that one country offended another, but the men seem puzzled and state that they personally are not offended by anything.¹⁴⁸ The soldiers share that they bear no resentment towards their supposed enemies.¹⁴⁹ The soldiers simply feel as though their government used them as pawns in a larger political scheme.¹⁵⁰ By enlisting in the army, the soldiers have indicated their willingness to sacrifice for their government. In return, they expected some sort of payback, in the form of order and purpose. Rather than providing the law and order owed through the social contract, the government has placed its citizens in a brutal and seemingly senseless war.

This betrayal by the government inevitably leads to the breakdown of social order and hierarchy. The film reveals this through the relationship between the soldiers and their commanding officer, Sergeant Himmelstoss. After enlisting in the army and learning that their neighborhood postman now holds the position of drill sergeant, they initially respond with excitement.¹⁵¹ However, they quickly find that Himmelstoss treats his position seriously.¹⁵² He

143. *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting).

144. McQuaig, *supra* note 16.

145. *ALL QUIET ON THE WESTERN FRONT*, *supra* note 6.

146. *Id.* at 54:02.

147. *Id.* at 55:04.

148. *Id.* at 55:15.

149. *Id.* at 55:30.

150. *Id.* at 56:18.

151. *Id.* at 11:44.

152. *Id.* at 12:30.

seems to represent the authoritarian social hierarchy that the government tries to impose during wartime. At first, the soldiers conform to his strict commands, endlessly marching and crawling through the mud.¹⁵³ However, the soldiers eventually learn that Himmelstoss fails to personally practice the stringent order he preaches about.¹⁵⁴ The soldiers catch him returning from a night of drinking, and then they beat and humiliate him.¹⁵⁵ This sequence suggests that the disconnect between the government's demands and its practices disenchant the citizens, inevitably leading to societal breakdown.

Later, Himmelstoss shows up in the trenches.¹⁵⁶ Upon arriving, he attempts to make the soldiers salute and acknowledge his position as a commanding officer.¹⁵⁷ The soldiers laugh and say that no one salutes in the trenches.¹⁵⁸ This reveals how the war has completely destroyed all remnants of social hierarchy and respect for the government.

Milestone bemoans this loss of government and social hierarchy because it highlights the meaningless of the sacrifice in war. As the film progresses, the characters become increasingly disenchanted with both the war effort and civilian society. After returning home during a furlough, Paul finds that he has difficulty returning to the life he once led.¹⁵⁹ Paul returns to the battle front early and tells his comrades that he can never go back home again.¹⁶⁰ In addition to the significant mental trauma, the war and the breakdown of the social contract deprives the soldiers of their ability to function in traditional society.¹⁶¹ To reinforce this point, nearly every character perishes by the end of the film.

V. Conclusion

All Quiet on the Western Front's opening shot of soldiers marching triumphantly through the street transitions into the classroom scene. The young students, soon to become cannon fodder like the soldiers striding by in the background, listen to their professor rant about the importance of enlisting to defend one's

153. *Id.* at 15:25.

154. *Id.* at 18:27.

155. *Id.* at 19:30.

156. *Id.* at 71:07.

157. *Id.* at 71:35.

158. *Id.* at 72:05.

159. *Id.* at 118:30.

160. *Id.* at 126:40.

161. KESTER, *supra* note 90, at 12–13.

country. He speaks about how defending one's country, experiencing war, and distinguishing oneself in battle outweighs any personal sacrifice. This introduces the audience to the notion that social values and personal priorities change during wartime. Embracing the sacrifice of individual rights, reminiscent of the message conveyed in Rousseau's *Social Contract*, the students rise up and cheer about sticking together and fighting for the greater good. Chaos erupts in the classroom, foreshadowing that war results in a loss of law and order. After the students run out to enlist, the camera holds on the empty classroom, symbolizing the complete loss and destruction resulting from war and the absence of law.

Again and again throughout *All Quiet on the Western Front*, Milestone reveals how, during wartime, law and order vanish.¹⁶² As mere survival becomes a challenge, social structure and legal institutions break down. This shows how law only functions during peacetime. Milestone argues that this absence of law is unjustifiable. Avoiding risk no longer minimizes the possibility of harm, the lack of accountability for crime hurts both the criminal and the victim, and people lose the ability to enjoy the benefits of their property. The absence of law strips society of the mechanism for achieving theoretical and philosophical goals, leading to a disintegration of the communal standards and inevitably, chaos. This commentary on the absence of law adds depth to strengthen the film's overall anti-war argument.

Today, in Iraq and Afghanistan, countless people struggle to survive in lawless societies. Rioting, rampant violence, and extensive drug trading have resulted from the conflicts in the region. American disregard of international law aggravates the turmoil. Power vacuums and the related lawlessness have deprived innocent civilians of essential public services, such as electricity, water, sanitation, and access to medicine, and health services.¹⁶³ This reveals how Milestone's message remains relevant to this very day.

162. ALL QUIET ON THE WESTERN FRONT, *supra* note 6.

163. UN News Centre, *supra* note 140.

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